

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

KELVIN FRANCIS

CIVIL ACTION NO. 16-0197

VERSUS

JUDGE S. MAURICE HICKS, JR.

BURL CAIN

MAGISTRATE JUDGE KAY

JUDGMENT

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, determining that the findings are correct under the applicable law, and noting the petitioner's objections to the Report and Recommendation;

IT IS ORDERED that the Petition for Writ of Habeas Corpus (Record Document 1) be **GRANTED IN PART** and **DENIED IN PART**. The petition is **GRANTED** as it relates to the second claim seeking a new sentencing hearing in compliance with Miller v. Alabama, 132 S.Ct. 2455 (2012), and that the matter be remanded to the Fifteenth Judicial District Court, Acadia Parish, Louisiana, for resentencing. The request for an evidentiary hearing raised in the petitioner's objections is hereby **DENIED**, and the petitioner's remaining claim, alleging ineffective assistance of counsel, is hereby **DENIED and DISMISSED WITH PREJUDICE**.

Rule 11 of the Rules Governing Section 2254 Proceedings for the U.S. District Courts requires the district court to issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Here, Petitioner's ineffective assistance of counsel claim was denied. Thus, the Court, after considering the record in this case and the standard set forth in 28 U.S.C. § 2253, **DENIES** a certificate of appealability because the

applicant has not made a substantial showing of the denial of a constitutional right.

THUS DONE AND SIGNED, in Shreveport, Louisiana, this 3rd day of October, 2017.



S. MAURICE HICKS, JR.
UNITED STATES DISTRICT JUDGE